

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 09-724 (MJD/AJB)

Based on the motion of the United States for an order granting default judgment against all unknown persons and entities having an interest in the defendant real property who have failed to file a verified statement of claim and answer, and for a final order of forfeiture forfeiting the defendant real property and premises located at 16973 665th Street, Wabasha, Minnesota to the United States subject to the terms of the Stipulation For Settlement Of Claim agreed to between the United States and Claimant Victor J. Wenzel; and based on all the files and records in this action, and on Court's finding as follows that:

1. The defendant real property consists of real property located at 16973 665th Street, Wabasha, Minnesota and legally

described as follows:

That part of the North Half of the Southeast Quarter (N ½ of SE 1/4) of Section 9, Township 110 North, Range 10 West lying Northeasterly of the Chicago, Milwaukee and St. Paul Railroad right-of-way, described as follows: Beginning at a 4" brass capped government monument, which is the Northeast corner of the Southeast Quarter (SE 1/4) of Section 9; thence South along the East line of said Section 9 a distance of 456.0 feet to the Chicago, Milwaukee and St. Paul Railroad right-of-way; thence North 33 degrees 30 minutes West along said Railroad right-of-way, a distance of 548.5 feet; thence East along the North line of said North Half of Southeast Quarter (N ½ of SE 1/4) of Section 9, a distance of 304.0 feet to the place of beginning.

Also that part of the North Half of the Southwest Quarter (N ½ of SW 1/4) of Section 10, Township 110 North, Range 10 West, the description of which is found to be as follows: Beginning at a 4" brass capped government monument, which is the Northwesterly corner of said North Half of Southwest Quarter (N ½ of SW 1/4) of Section 10; thence East along the North line of said North Half of Southwest Quarter (N ½ of SW 1/4), a distance of 130.0 feet; thence Southerly along an established fence line a distance of 651.5 feet to the Chicago, Milwaukee and St. Paul Railroad right-of-way; thence North 33 degrees 30 minutes West along said Railroad right-of-way a distance of 234.4 feet to the West line of said North Half of Southwest Quarter (N ½ of SW 1/4) of Section 10; thence North along said West line a distance of 456.0 feet to the place of beginning and there terminating. And containing 3.25 acres more or less.

EXCEPTING THEREFROM THE FOLLOWING PARCEL:

All that part of the following described tract: That part of the Northeast Quarter of the Southeast Quarter (NE 1/4 of SE 1/4) of the Section 9-110-10 lying Southwesterly of the Southwesterly right-of-way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, which lies Northeasterly of a line run parallel with and distant 364 feet Southwesterly of the following described line:

Beginning at a point on the South line of Sec. 10-110-10, distant 1255.6 feet East of the Southwest corner thereof; thence run Northwesterly at an angle of 56 degrees 30 minutes 36 seconds with said South Section line for 3600 feet and there terminating; containing 13.03 acres, more or less, of which 7.75 acres are for right-of-way and 5.28 acres are for scenic area. Together with all right of access, being the right of ingress to and egress from all that part of the above described tract not acquired herein to Trunk Highway No. 61.

2. A Complaint for Forfeiture *In Rem* with supporting Affidavit of Special Agent Lucinda Schad was filed on March 30, 2009, alleging that the real property located at 16973 665th Street, Wabasha, Minnesota ("the defendant real property") is subject to forfeiture pursuant to 21 U.S.C. §§ 881(a)(6) and 881(a)(7), and pursuant to 18 U.S.C. § 981(a)(1)(A).

3. On April 2, 2009, the Plaintiff personally served Victor J. Wenzel with a copy of the Notice of Judicial Forfeiture Proceedings, the Complaint For Forfeiture *In Rem*, the Affidavit of Lucinda Schad In Support of Complaint For Forfeiture, and the Notice of Forfeiture.

4. The Internal Revenue Service - Criminal Investigation Division Special Agent Lucinda Schad posted a Notice of Complaint for Forfeiture Against Real Property on the defendant real property on April 2, 2009.

5. The United States Attorney's Office also served copies of the Complaint for Forfeiture *In Rem*, Notice of Lis Pendens, and Notice of Complaint for Forfeiture Against Real Property by certified mail return receipt requested on the Wabasha County Auditor / Treasurer's Office on April 7, 2009.

6. A Notice of Civil Forfeiture was posted on an official government internet site (www.forfeiture.gov) for at least 30 consecutive days, beginning on April 7, 2009, as required by Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions.

7. Victor J. Wenzel has filed a Verified Claim and Answer in this proceeding.

8. No other verified statement of interest or answer to the Complaint for Forfeiture *In Rem* has been filed with the Clerk of Court or served on the United States Attorney, and the time for filing a verified statement of interest and answer has expired.

9. On or about February 17, 2010, the Plaintiff and claimant Victor Wenzel entered into a Stipulation for Settlement of Claim in this action. In summary, the parties agreed that the defendant real property will be forfeited to the United States and, upon the sale of the property, Claimant Victor Wenzel will receive 15% of the net proceeds from the sale of the property.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Default judgment is entered against all unknown persons and entities having an interest in the defendant real property who have failed to file a verified claim and answer in this proceeding;

2. All right, title and interest in the defendant real property and premises located at 16973 665th Street, Wabasha, Minnesota, and legally described above, is forfeited to and vested in the United States pursuant to 21 U.S.C. §§ 881(a)(6) and 881(a)(7), and pursuant to 18 U.S.C. § 981(a)(1)(A); and

3. The defendant real property shall be sold by the United States in accordance with law, subject to the terms of the Stipulation For Settlement agreed to between the United States and Claimant Victor J. Wenzel.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: April 13, 2010

s/ Michael J. Davis
MICHAEL J. DAVIS, Chief Judge
United States District Court